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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,952	10/15/2003	Edward Anthony Bezek	CFLAY.00190	7945
22858	7590	06/05/2006	EXAMINER	
CARSTENS & CAHOON, LLP P O BOX 802334 DALLAS, TX 75380			MAZZUCA JR, DOUGLAS	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,952

Applicant(s)

BEZEK ET AL.

Examiner

Douglas E. Mazzuca

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (hereinafter APA) in view of Crisci (US Patent No. 4,049,107).

Concerning Claims 11-15, 18 and 19, APA discloses that it has been well known in the art to combine injection molded caps with blow molded containers do to cost effectiveness over other container materials in order to make thin, plastic snap-on caps (**page 2 line 24-page 3 line 17 of the specification; also seen in figure 1**). Furthermore, it is inherent that the manufacturing tolerance for blow molding is much lower than the tolerance for injection molding, i.e. injection molding is a much more precise process (**as evidence, see page 1277 of the Injection Molding Handbook, Third Edition; 2000**).

However, APA does not disclose the structure of the present invention. Crisci teaches; a molded container (**column 3 lines 61-62**) and a molded overcap (**column 2 lines 65-68**), the container being made of high-density polyethylene (**column 6 lines 7-8**) and the overcap being made of low-density polyethylene (**column 3 lines 28-30**). The container (**figure 1, 10**) has an opening

surrounded by a rim (**figures 3 and 4, top end of 18**), said rim having an upper portion that is rounded (**60**) and a lower portion that is flat in cross-section (**30**), wherein said container is designed to have a nominal outer diameter at a largest circumference of said rim with a manufacturing tolerance; a snap-on overcap (**figures 4 and 5, 14**) is removably snapped over said rim of said container, wherein a base of said overcap is sized to cover said opening (**column 1 lines 11-16**), said overcap further comprising a flange extending essentially perpendicularly from said base (**figures 2 and 4, 44**), an inner surface of said flange containing a circumferential ridge having a peak (**tip of 42**), a flattened face (**42**) of said ridge being configured to seat against said lower portion of said rim of said container (**figure 4, 34A**). As disclosed by Crisci in column 3, lines 8-20, this particular structure forms both a vapor lock seal and a firm securement between the overcap and the container. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of APA with the container structure of Crisci in order to provide an economical manufacturing process to create a tightly sealed plastic container.

3. In regard to claims 16 and 17, APA discloses the differences between the manufacturing tolerances of the blow-molded container and the injection molded cap. Crisci teaches the nominal inner diameter of the overcap at the peak equal to the nominal outer diameter of the rim of the container (**figure 4, 62**), and the nominal inner diameter of the overcap at locations away from the peak to be greater than the nominal

outer diameter of the rim of the container (**figure 4, horizontal distance from 48 to 62**). However, APA in view of Crisci does not disclose the specific relationship between the overcap and the container as described in the present invention. However, it would have been obvious to form the container and overcap with the claimed manufacturing tolerance, for the components of the container so as to ensure that the container is air-tight when overcap is properly placed on container. Further, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (Refer to MPEP 2144.05)

4. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view Crisci (US Patent No. 4,409,107). APA in view of Crisci discloses all of the claimed information as stated above, yet fails to describe how to determine overlap, and the nominal inner diameter of the cap. However, it would have been obvious to have determined a nominal inner diameter of the overcap in several locations since determining these dimensions is necessary for container sealing and tightening purposes so as to not only make the container air-tight, but also make it feasible to put on and remove the overcap. Further, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (Refer to MPEP 2144.05)

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Crisci (US Patent No. 4,409,107) and further in view of Crafter Industries. Crisci discloses all of the information, as shown above, but fails to show polyethylene being a low-friction plastic. However, this information is well known in the art and can be seen through the published information by Crafter Industries, Inc. that polyethylene is indeed a low-friction material. (www.crafterind.com/material.htm, published March 1, 2000).

Response to Arguments

6. Applicant's arguments with respect to claims 11-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas E. Mazzuca whose telephone number is (571)272-7813. The examiner can normally be reached on 7:30AM-4PM Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571)272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEM



DAVID P. BRYANT
PRIMARY EXAMINER

Douglas Mazzuca
May 24, 2006